

REMARKS

In the November 7, 2002 Office Action, the Examiner rejected claims 40-59 under 35 U.S.C. §§ 112 and 103(a). In the ensuing sections of this response, applicant will respond to those rejections and highlight the differences between the pending claims and the cited references such that it becomes apparent to the Examiner that these rejections should be reconsidered and withdrawn. In particular, applicant would like to direct the Examiner's attention to applicant's novel idea for an improved method and system for managing the compensation structure of a multi-location organization through direct payroll processing, automatic compensation recalculation, and maintaining updated records to calculate payroll and human resource data. Applicant is unaware of any system like this in the prior art, and even the references relied upon by the Examiner do not suggest the applicant's novel invention.

With respect to the Examiner's § 112 rejection of claims 40-59, applicant amended the pending claims to further define the present invention. Further, in regard to the Examiner's § 112 rejection of claim 55, applicant respectfully submits that support for each means element of this claim is found in the specification.

Specifically, a "means for inputting employee data" is disclosed at page 16, line 20 through page 17, line 10 and Figure 26. Next, a "means for inputting transaction data" is disclosed at page 17,

1 line 11 through page 18, line 5 and in Figure 23. A "means for
2 creating a compensation plan for each employee" is set forth in the
3 specification at page 18, line 12 through page 22, line 13 and in
4 Figure 26. Lastly, a "means for generating an employee job table"
5 is disclosed in the specification at page 16, lines 11-19. In
6 light of this, Applicant submits that support for the above claim
7 elements is clearly set forth in the specification and that
8 therefore this rejection should be withdrawn.

9 Turning next to the Examiner's objection to the drawings,
10 applicant has amended Figures 22 and 24 in accordance with the
11 Examiner's comments. No new matter has been added.
12

13 I. THE INVENTION

14 The invention provides an improved method and apparatus for
15 providing a consolidated store compensation system, effective in
16 the design of a network-based computer software application that
17 integrates and manipulates payroll and human resource information
18 to determine compensation due to each employee in accordance with a
19 company's practices and policies. Further, this process facilitates
20 the ease of calculating the compensation due an employee in
21 accordance with business practices and company policies. In so
22 doing, payroll is automatically recalculated in the compensation
23 calculation, at predetermined intervals, to ensure accurate and
24 updated compensation is provided. Unlike the previous technology,

1 the present invention allows the practitioner to efficiently
2 integrate human resources management and payroll systems, while
3 managing the compensation structure of multi-location companies.
4

5 **II. THE EXAMINER'S REJECTIONS**

6 In the November 7, 2002, Office Action, the Examiner rejected
7 claims 40-59 under 35 U.S.C. § 103(a) as being unpatentable over
8 Green *et al.* U.S. Patent 6,356,875 (Green) in view of Adams U.S.
9 Patent 5,255,182 (Adams). In the opinion of the Examiner, Green
10 discloses:

11 "A method comprising inputting employee data and
12 transaction data, e.g. column 2, into a server 16 and
13 computers 12, 20, 24, 26 (or a single computer, col. 4,
14 line 64) that stores data therein and calculating and
15 recalculating employee labor costs (may be on a daily
16 basis) to determine compensation packages via the
17 productivity/pay system 10. The incentive may be no more
18 than the allowable amount of time and/or units/function
19 an employee is allowed to work each day/week/month."
20

21 The Examiner goes on to state that Adams discloses "a point of sale
22 (POS) system where data is uploaded into a computer for analysis".

23 Applicant firmly believes that the following remarks will
24 convince the Examiner that the rejections of the pending claims
25 should be reconsidered and withdrawn. In short, Applicant
26 respectfully submits that the Examiner's reliance on Green and Adams
27 is misplaced. Applicant's invention is very different from what is
28 disclosed in the cited art.
29

1 **III. THE EXAMINER'S REJECTIONS**
2 **SHOULD BE RECONSIDERED**

3 Applicant respectfully submits that the pending claims 40-59
4 are neither taught nor rendered obvious by the cited references.
5 We are confident that the Examiner will recognize that the
6 rejection of claims 40-59 under 35 U.S.C. § 103(a) as unpatentable
7 over Green in view of Adams is misplaced. Neither Green nor Adams,
8 either alone or in combination, teach all of the limitations of the
9 claimed invention. Further, any rejection based on Green and/or
10 Adams could only have been made with the benefit of the teaching's
11 of applicant's own specifications, and could only be the result of
12 hindsight reconstruction of the applicant's invention. In
13 particular, neither Green nor Adams discloses a network-based
14 system or method for calculating and re-calculating employee
15 compensation like applicant's claimed invention.

16 Briefly, Green discloses an apparatus and method for an
17 integrated production tracking and payrate calculation system at a
18 production center (i.e., a dental laboratory). According to Green,
19 the calculation of employee productivity is tracked and
20 incorporated into the payroll system. To minimize labor and
21 equipment costs in a production center, materials and products are
22 recorded for each employee, whereby an employee is not paid for
23 repeat work. This is not the claimed invention.

24 Next, Adams generally discloses a system for monitoring
25 payment card transactions from a point-of-sale (POS) terminal to a

1 transaction authorization network. More specifically, this system
2 determines the cause of lost, delayed, or erroneous responses from
3 a point of sale terminal to a network. All messages requesting
4 authorization from the POS terminal are measured and the elapsed
5 time is logged, regardless of the success of the transmission.
6 Periodically, logged data is uploaded by the terminal for analysis.
7 This too is not applicant's claimed invention.

8 In the opinion of the Examiner, because there are "thousands
9 of different employee compensation packages that prevail throughout
10 the industry," substituting "one package for another using the
11 computer systems of Green, as modified by Adams, would have been
12 obvious to one of ordinary skill in the art." Applicant
13 respectfully disagrees. The importance of an effective employee
14 compensation system for business is well known. Further,
15 technological advances have resulted in improved methods for the
16 integration of payroll and varying services. The present invention
17 is such an enhancement. In contrast to the references cited by the
18 Examiner, the present invention provides an improved compensation
19 system for managing the compensation structure of multi-location
20 companies.

21 In the opinion of the Examiner:

22 "Green discloses a method comprising inputting employee
23 data and transaction data into a server and computers
24 that stores data therein and calculating and
25 recalculating employee labor costs to determine
26 compensation packages via the productivity/pay system."
27

1 Applicant disagrees. Green does not disclose "recalculating
2 employee labor costs to determine compensation packages". Instead,
3 according to Green, employee labor costs are determined to
4 calculate the individual hourly pay rates to be applied to all
5 hours worked during the next month. (See col. 10, lns. 13-33) This
6 is not the applicant's invention.

7 In contradistinction, the present invention discloses the
8 calculation and re-calculation of each employee's compensation
9 prior to the issuance of his or her paycheck. That is, according
10 to the claimed invention, compensation for a particular period is
11 calculated and re-calculated. The re-calculated compensation is
12 then compared to the actual information derived from the original
13 compensation calculation. If an adjustment is needed, the pay will
14 be re-calculated yet again based on corrected data. If no
15 adjustment is necessary, the results are stored for use in
16 generating an employee's paycheck. Therefore, the present
17 invention discloses a system that re-calculates compensation and
18 compares the information with the initial compensation calculation.
19 Any adjustments are considered by the system and corrected prior to
20 the issue of payroll. Such a system is not taught or suggested
21 anywhere in Green or Adams.

22 Also in the opinion of the Examiner, Green discloses inputting
23 employee data and transaction data into the computers and server,
24 where each computer serves a different function but all functions

1 may be performed by a single computer. Green does not disclose
2 network-based software for inputting employment data into the
3 system. Implementing a single computer to complete the tasks of
4 one or more computers, in connection with a server, is distinct
5 from the present invention. The present invention utilizes a
6 network to connect multiple locations to a central database. In
7 particular, employee compensation is calculated by a computer
8 system comprising two main functions: online design and batch
9 design. More specifically, online design enables a user to develop
10 a compensation plan and generate an employee job table for each
11 employee. Batch design calculates employee compensation through
12 employee data input online. This is not taught by Green.

13 Turning next to Adams, disclosed is a network system,
14 apparatus and method to determine how payment card transactions are
15 lost, delayed or produce erroneous responses. The applicant agrees
16 that Adams uses a point-of-sale (POS) system to obtain data for
17 analysis. However, such a system is well known to those
18 knowledgeable in the art. Adams merely discloses a method for
19 uploading transaction data to obtain authorization for a POS
20 system. Nowhere does Adams disclose a method for calculating
21 compensation for individual employees based on transaction data or
22 for recalculating data to determine the final compensation package.

23 Applicant respectfully submits that the combination asserted
24 by the Examiner, even if proper, does not arrive at the claimed

1 invention. As seen from the above remarks, neither Green nor Adams
2 disclose a network-based compensation system for multiple locations
3 that recalculates compensation prior to the issue of payroll. The
4 combination of a production/pay tracking system with monitoring and
5 regulating payment card transactions will not arrive at the present
6 invention and is clearly a result of hindsight reconstruction.

7 As stated by the Examiner, other pertinent references include
8 Owens et al. U.S. Patent 6,092,055 (Owens), Goodwin III, U.S.
9 Patent 6,044,358 (Goodwin), Manos U.S. Patent 5,884,283 (Manos),
10 and Apgar, IV U.S. Patent 5,680,305 (Apgar). As with Green and
11 Adams discussed above, none of these additional references disclose
12 a network-based system or method for calculating and re-calculating
13 employee compensation like applicant's claimed invention.

14 As set forth above, the references cited by the Examiner do
15 not teach or suggest applicant's claimed invention. Rather, the
16 invention, for the first time, discloses and claims a method and
17 apparatus for providing a consolidated store compensation system,
18 wherein, interfacing of payroll and human resource transactions is
19 completed in an efficient and timely manner, thereby minimizing
20 miscalculations while storing general information in a central
21 database, wherein the companies compensation plan is based on the
22 policies and an individual employee's status, wherein an employee's
23 pay is recalculated in comparison to historical pay sheets to
24 determine consistency, enabling adjustments when necessary. That

1 is, disclosed and claimed that this invention is an improved method
2 to providing compensation to multi-location companies with the
3 option for commission and integration of human resources. This
4 represents a significant improvement over the conventional time
5 card procedure in relating human resources management and
6 operations.

7 Furthermore, applicant respectfully points out that, standing
8 on their own, these references provide no justification for the
9 combination asserted by the Examiner.

10 "Obviousness cannot be established by combining the
11 teachings of the prior art to produce the claimed
12 invention, absent some teaching or suggestion supporting
13 the combination. Under section 103, teachings of
14 references can be combined only if there is some
15 suggestion or incentive to do so." *ACS Hospital Systems*
16 *Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221
17 USPQ 929, 933 (Fed. Cir. 1984) (emphasis in original).
18

19 The cited reference provides no such suggestion or incentive
20 for the combination suggested by the Examiner. Despite the
21 Examiner's suggestion, neither Green nor Adams teach of a
22 consolidated store compensation system incorporating payroll with
23 human resource data to calculate compensation due an employee,
24 wherein this system is functional for multiple locations.

25 However, even if Green taught of such a device, it would not
26 have been obvious to one of skill in the art to combine the
27 teachings of Green with the teachings of Adams. In particular,
28 Green teaches a process in which data is uploaded into a computer
29 for analysis that is further used to calculated productivity and

1 payroll at a single location. Conversely, Adams teaches a system
2 that monitors transactions between terminals in which a payment
3 card transaction is received and the network to ensure the
4 completion of the said transaction. Accordingly, there would be no
5 motivation to combine the production/pay tracking system of Green
6 with the monitoring and regulating of payment card transactions of
7 Adams. That is, the incorporation of Green and Adams would present
8 a network between a terminal and a server to provide authorization
9 of transactions input by an employee. This would restrict access
10 to the terminal and provide a log of transactions and hours,
11 regardless of delays or erroneous results in entering data. The
12 combined result clearly would not make sense.

13 Thus, it would not have been obvious to incorporate the
14 analysis of transactions with the calculation of production
15 tracking to result in an automated and consolidated compensation
16 calculation for multiple locations, and the obviousness rejection
17 could only be the result of a hindsight view with the benefit of
18 the applicant's own specification. However,

19 "To draw on hindsight knowledge of the patented
20 invention, when the prior art does not contain or suggest
21 that knowledge, is to use the invention as a template for
22 its own reconstruction -- an illogical and inappropriate
23 process by which to determine patentability. The
24 invention must be viewed not after the blueprint has been
25 drawn by the inventor, but as it would have been
26 perceived in the state of the art that existed at the
27 time the invention was made." (citations omitted) *Sesonics*
28 *v. Aerosonic Corp.*, 38 U.S.P.Q. 2d. 1551, 1554 (1996).
29

1 In addition, the combination advanced by the Examiner is not
2 legally proper -- on reconsideration the Examiner will
3 undoubtedly recognize that such a position is merely an "obvious
4 to try" argument. The disclosures of Green and Adams do not
5 reveal all of the functional or design choices that include that
6 of the applicant's invention. Accordingly, it was not obvious to
7 combine the cited references to arrive at the present invention.

8 Applicant submits that the only 'motivation' for the
9 Examiner's combination of the references is provided by the
10 teachings of applicant's own disclosure. No such motivation is
11 provided by the references themselves.

12 Therefore, as is evidenced by the above amendments and
13 remarks, the present invention, for the first time, discloses an
14 improved system for store compensation through interfacing human
15 resource data and operations information for multi-location
16 companies. That is, disclosed and claimed is a method and
17 apparatus that represents a significant improvement over the
18 conventional methods of compensation such that the effective and
19 accurate operation of a business is enhanced through the
20 integration of payroll and human resource to determine compensation
21 for each employee through a network such that this is neither
22 taught nor suggested anywhere in the prior art, including the cited
23 references.

24 The present invention is distinct from the cited art whether

1 alone or in combination, and discloses an improved method and
2 apparatus for providing a consolidated store compensation system.
3 As evidenced by the above remarks and after careful review of Green
4 in view of Adams, the uniqueness of this invention is evident. The
5 present invention represents a significant improvement over
6 previous payroll and human resource systems and does not disclose
7 any invention in the cited art.

8

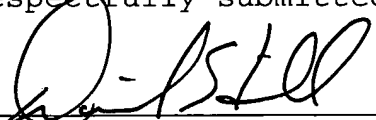
9

CONCLUSION

10 In view of the foregoing, applicant respectfully submits that
11 the present invention represents a patentable contribution to the
12 art and the application is in condition for allowance. Early and
13 favorable action is accordingly solicited.

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Respectfully submitted,



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